



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

PROJECT VOTE/VOTING FOR AMERICA,

Plaintiff,

v.

Case No. 2:10-CV-75

**ELISA LONG, General Registrar for the
City of Norfolk, Virginia, and
DONALD PALMER, Secretary of the
Virginia State Board of Elections**

Defendants.

DECLARATION OF GARRY E. ELLIS

I, GARRY E. ELLIS, state as follows under penalty of perjury and in support of the Opposition to Summary Judgment being filed by Defendant Elisa Long in this action:

1. I reside in the Commonwealth of Virginia and am over 18 years of age. I make this Declaration based upon personal knowledge and/or review of records kept in the regular and ordinary course of business, and based upon my work as the National Voting Rights Act of 2003 ("NVRA" or "Act") coordinator for the Virginia State Board of Elections ("SBE").

2. Since January 2004, I have worked as the NVRA coordinator for the SBE. In this position, I am responsible for ensuring compliance with the requirements of the NVRA. This includes providing training and supplies to Local General Registrars, designated state agencies, third party/private voter registration groups, and coordinating National Change of Address ("NCOA") Address Confirmation Program, and the NVRA List Maintenance Program.

3. Virginia's list maintenance "programs and activities" under the NVRA demonstrate the Act's disclosure requirement. Virginia chose to comply with 42.U.S.C. § 1973gg-6(c)(1), dealing with state programs for removing voters from voting rolls, by establishing a "program"

using information supplied by the U.S. Postal Service called the National Change of Address (“NCOA”) program. The NCOA program matches the active voter registration rolls against the Postal Service National Change of Address Registry to identify registered voters who have moved and failed to notify the local general registrar of their change of address.

4. Virginia’s NVRA List Maintenance Program complies with 42 U.S.C. § 1973gg-6(b)(2), under which voter registration records are cancelled, for individuals whose registration record has been moved to inactive status for either (1) failing to respond to the NCOA Address Confirmation Notice mailed, or (2) not updating their voter registration record in writing within two General Elections for Federal Office. This program is performed after each General Election for Federal Office. This program generates a list of all voters whose voter record was cancelled for failing to respond to the NCOA Notice, or for failing to update their voter registration record as required by NVRA. That list is available for public inspection, along with guidance documents provided to local registrars. A sample copy of a portion of such a list is attached as Exhibit A. A copy of an NCOA Address Confirmation Notice is also attached as Exhibit B. A copy of the guidance document provided to local registrars for this NVRA List Maintenance Program is attached as Exhibit C.

5. Once the name and address match is performed, a notice is generated for those registered voters identified as having moved. The notice is mailed to the voter, and lists the address at which the voter is currently registered along with the address provided by the U.S. Postal Service. The voter checks the appropriate address and mails the notice using the pre-paid envelope provided. Should the voter fail to return the notice within thirty (30) days, or if the notice is returned by the Postal Service as undeliverable, that voter record is moved to an inactive status. The inactive status does not prevent the individual from voting, but requires the

individual to affirm their resident address prior to voting. Depending on when and where the individual moved, the voter may or may not be allowed to vote. The individual can stay inactive for up to two General Elections for Federal office. This program, called the NCOA Address Confirmation Program, comports with the NVRA's requirements under 42 U.S.C. § 1973gg-6(b)(4). That program generates two lists: NCOA Confirmation Notices Not Sent; and NCOA Confirmation Notes Sent. These list voter names and addresses of voters that were sent or not sent a notice. Of these two lists, one, a partial sample of which is attached hereto as Exhibit D, is available for public inspection, along with guidance documents provided to local registrars for the NCOA Address Confirmation Program. A copy of the guidance document provided to local registrars for this program is attached as Exhibit E.

Declared and signed under penalty of perjury under 28 U.S.C. § 1746 this 2nd day of March, 2011.



GARRY E. ELLIS